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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 02.04.2019

+ CRL.REV.P. 484/2017

STATE (GOVT OF NCT OF DELHI)

..... Petitioner

versus

AJIT SONI

..... Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Hirein Sharma, Addl. PP for the State with Tej Ram

For the Respondent: Ms. Jasvinder Kaur and Mr. Abhishek Chaudhary, Advts.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. State has filed this revision impugning order dated 07.12.2016 whereby the respondent has been discharged of the offence under Section 376 of the IPC.
2. FIR was registered consequent to the directions being issued under Section 156 (3) Cr. P.C. on a complaint filed by the prosecutrix/respondent.
3. The allegations in the FIR are that prosecutrix was known to the respondent/accused. Prosecutrix had kept a gold chain with the respondent/accused who is a jeweller. It is contended that her husband had died in the year 2005 and in 2006 she had gone to the respondent to take back her chain when she informed the respondent that her husband had

expired.

4. It is alleged that he stated that he would take care of her and her child. She, however, objected stating that he was married to which respondent is alleged to have stated that he would take care of everything. It is alleged that one day, he took her in his car and forcefully made physical relationship with her. The car was alleged to be a Santro Car having tinted classes. It is alleged that thereafter also he made physical relations with her several times.

5. As per the complaint, the respondent had taken money from her and she even took loan from others to give to the respondent. He had assured to return the money. However, he did not return the same. He forcefully took her signatures on some blank papers and forcefully transferred her plot in his name. Further it is alleged that all her salary was taken by him and he even took blank cheques from her containing signatures. It is alleged that he had used the blank cheques and filed a complaint against her under Section 138 of the Negotiable Instruments Act.

6. Trial court, by the impugned order, noticed the contention of the respondent/accused that he had been falsely implicated and further that there was substantial delay in lodging the complaint, in as much as, the alleged forceful act was alleged to have taken place in or around 2006 and the complaint was lodged for the first time in the year 2013. Further, the trial court noticed the contention that the complaint was a counter-blast to the complaint filed by the respondent under Section 138 of the Negotiable Instruments Act against the prosecutrix and also against her brother who had allegedly purchased jewellery items on credit and issued cheques.

8. Trial Court, on going through the material collected during investigation, found that there was no medical evidence to corroborate the version of the prosecutrix and no complaint had been lodged by the prosecutrix till 28.01.2013; though she had alleged that she was raped in the year 2006.

10. Trial court on perusal of the record was of the view that the material placed on record did not give rise to grave suspicion against the respondent/accused for framing of charge under Section 376 IPC. Accordingly, by the impugned order respondent was discharged.

1. *****

2. That the accused above named Shri Ajeet Soni running a jewellery shop in the Najafgarh area.

3. That the complainant was from time to time visiting the shop of the accused with her husband for purchase of jewellery.

4. That in the year 2005, the husband of the complainant died and he was working in Indian Army.

5. That at about four years ago, the complainant went to the shop of the accused for purchase of ear ring and on that day, the accused came to know about the death of her husband.

6. That during this period, the accused came to contact with the complainant and developed the friendly relation with the complainant and from time to time all the complainant in his shop and when she objected, the accused replied the complainant that no will tell you anything.

7. That as and when the accused called the complainant in his shop, they talked with the complainant in a very vulgar language and the accused also all the times tried to talk about the children of the complainant.

8. That the complainant has trust the behaviour of the accused and also more than the gods.

9. That the accused developed the physical relationship with the complainant and the accused used to rape the accused in his car because the glass of the car is covered with black film. The accused regularly with threatening the complainant raped from the year 2006 to till April, 2012.

10. That the accused know that no one remain to look after the complainant. The complainant told all family history to the accused.

11. That during this period, the accused kept all the relevant papers of the properties of the complainant in his

custody. In the year 2011, that the complainant purchased a scooty and the accused accompanied the complainant and purchased the scooty in his wife name namely Seema Soni and after passing of four months, he sold the scooty to someone else with the pretext that the complainant need a some money urgently.

12. That the complainant understood that the accused person tried to mislead the complainant with the false pretext and misuse her body and property. As and when the complainant did not turn up after the phone call from the accused, the accused himself visited the house of the complainant and the complainant due to fear of her child and the social stigma did not resisted and hand over her body to the accused.

13. That the complainant fulfilled all the demands, demanded by the accused due to fear of her child and social stigma.

14. That the accused taken a signed blank cheques, pass books and all relevant documents relating to the properties and taken a signature of the complainant on some blank papers.

15. That the accused filed a complaint under Section 138 of the Negotiable Instruments Act against the complainant with the using cheque received by accused.

16. That in such a manner the accused has committed fraud with the complainant by receiving the blank signed cheques, original documents of properties and blank signed copy of the stamp papers. The accused also raped the complainant with false pretext and threatening to the complainant with dire consequences and hence the accused is liable to be punished in accordance with law.”

12. Perusal of the allegations show that the allegations are very vague and complainant/prosecutrix has not given any specific details about the

alleged offence. There is a bald statement that one day the respondent had forcefully made relations with her in a car. Thereafter he had continued to rape her from year 2006 to 2012. The allegations against the respondent as is evident from the FIR as well as her statement recorded under Section 164 Cr. P.C. are vague and the said allegations have also not been corroborated by any material on record including the medical report.

13. As per the prosecutrix, admittedly there is a prior complaint filed by the respondent against her under Section 138 of the Negotiable Instruments Act for dishonour of a cheque issued in favour of the respondent. The prosecutrix has also not been able to render any explanation as to why she did not make a complaint immediately after the offence was committed upon her in the year 2006. Rather the statement given by the prosecutrix indicates that the respondent had assured that he would take care of her and her child. In her statement recorded under Section 164 Cr. P.C., the only averment is that one day in his car he had made forceful relations with her and thereafter also he had forcibly raped her.

14. As noticed above, there are no specific details provided by the prosecutrix either in her statement given to the police or in the statement given under Section 164 Cr. P.C.

15. The finding returned by the trial court that the material placed before the Court does not disclose grave suspicion against the accused for framing of a charge against him for committing the offence punishable under Section 376 of the IPC, does not appear to be perverse or misplaced.

16. Perusal of the records as well as the statements show that the

allegations are completely vague and bereft of any details, further the material placed on record does not give rise to grave suspicion against the respondent of having committing the offence under Section 376 of the IPC.

17. In view of the above, I find no infirmity in the impugned order dated 07.12.2016. There is no merit in the petition. The petition is accordingly dismissed.

18. Order *Dasti* under signatures of Court Master.

APRIL 02, 2019
'rs'

SANJEEV SACHDEVA, J

